

**IN THE
COMMONWEALTH OF VIRGINIA
REAL ESTATE APPRAISER BOARD**

Re: Mary Walsh Haley
Rockville, MD 20852

File Number 2003-00295
License Number 4001004718

FINAL OPINION AND ORDER

On February 1, 2005, the Summary of the Informal Fact-Finding Conference ("the Summary") and notification of the Real Estate Appraiser Board ("the Board") February 22, 2005 meeting was mailed, via certified mail, to Haley at the address of record. The certified mail was received.

On February 22, 2005, the Board met and reviewed the record, which consisted of the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference ("IFF"), and the Summary. Haley did not appear at the Board meeting in person, or by counsel, or by any other qualified representative. Haley did make a written request for a continuance in this matter to the next available board meeting in order to attend the meeting and to obtain counsel. The Board considered this request and denied the continuance.

The Board adopts the Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, and adopts the Summary. The Report of Findings and Summary are incorporated as part of this Order.

The Board finds clear and convincing evidence that Haley violated the following sections of its Regulations:

(Effective March 4, 1998)
Count 1: 18 VAC 130-20-170.3
Count 2: 18 VAC 130-20-180.E
Count 3: 18 VAC 130-20-180.E

The Board also imposes the following sanction:

Revocation of license for violation of 18 VAC 130-20-170.3 (Count 1).

In addition, the Board voted to impose no monetary penalty for violation of Count 2 and Count 3, due to the revocation imposed in Count 1.

THE TOTAL MONETARY PENALTY ASSESSED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THIS FINAL ORDER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF THIS FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF YOUR LICENSE (LICENSE NO. MARY WALSH HALEY ("HALEY")) UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

AS PROVIDED BY RULE 2A:2 OF THE SUPREME COURT OF VIRGINIA, YOU HAVE THIRTY (30) DAYS FROM THE DATE OF SERVICE (I.E. THE DATE YOU ACTUALLY RECEIVED THIS DECISION OR THE DATE THE DECISION WAS MAILED TO YOU, WHICHEVER OCCURRED FIRST) WITHIN WHICH TO APPEAL THIS DECISION BY FILING A NOTICE OF APPEAL, SIGNED BY EITHER YOU OR YOUR COUNSEL, WITH LOUISE FONTAINE WARE, SECRETARY OF THE REAL ESTATE APPRAISER BOARD. IN THE EVENT THAT THE DECISION WAS SERVED ON YOU BY MAIL, THREE (3) DAYS SHALL BE ADDED TO THE THIRTY (30) DAY PERIOD.

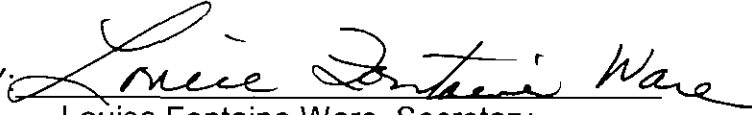
IF A PETITION FOR APPEAL IS FILED WITH THE CLERK OF THE CIRCUIT COURT, AS PROVIDED BY RULE 2A:4 OF THE SUPREME COURT OF VIRGINIA, THEN THE AUTOMATIC SUSPENSION OF YOUR LICENSE FOR FAILURE TO PAY THE TOTAL ASSESSED MONETARY PENALTY WILL BE STAYED PROVIDED THE FOLLOWING INFORMATION IS RECEIVED BY LOUISE FONTAINE WARE, SECRETARY OF THE REAL ESTATE APPRAISER BOARD:

1. A SIGNED COPY OF THE NOTICE OF APPEAL; AND
2. A COPY OF THE SURETY AGREEMENT OR A COPY OF THE RECEIPT FROM THE CLERK OF THE CIRCUIT COURT WHERE THE APPEAL HAS BEEN FILED INDICATING THAT A BOND HAS BEEN POSTED OR CASH PAID INTO THE COURT IN THE AMOUNT OF THE TOTAL MONETARY PENALTY ASSESSED IN THE FINAL ORDER.

SO ORDERED:

Entered this 22nd day of February, 2005.

Real Estate Appraiser Board

BY: 
Louise Fontaine Ware, Secretary

**IN THE
COMMONWEALTH OF VIRGINIA
REAL ESTATE APPRAISER BOARD**

Re: Mary Walsh Haley

File Number: 2003-00295
License Number: 4001004718

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On November 23, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Mary Walsh Haley at the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On January 11, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Mary Walsh Haley, Respondent; David Anderson, Counsel for Respondent; Bert Lloyd, Witness; Stephen Rochkind, Complainant (by telephone); Sheri Sylvester, Witness; Amy Chappell, Staff Member; and David N. Castle, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective March 4, 1998)

During the IFF, Ms. Sylvester (the homeowner) stated that she was seeking to refinance her mortgage and contacted a mortgage company in Maryland. The mortgage company indicated that an appraisal would be required, and they told Ms. Sylvester that Mr. Bert Lloyd would be assigned. According to Ms. Sylvester, Mr. Lloyd came to her house, she let him in, she walked him around the inside of the house, she walked him around the outside of the house, and she walked him around the neighborhood, and to his car. She testified that during that time, she never saw Mary Haley, who certified on the appraisal report that she had performed the inspection. Ms. Sylvester was emphatic that Mary Haley has never been in her home, and in fact, stated that she had never seen Mary Haley until the IFF. Ms. Sylvester said that Bert Lloyd asked her to make the check for the appraisal fee payable to Mary Haley. It should be noted that the check is endorsed by Mary Haley as "pay to Bert Lloyd." (Exh. W1-1)

During the IFF, Ms. Haley stated that Bert Lloyd is her husband. They operate separate appraisal businesses. Ms. Haley is licensed in Maryland and Virginia, and Mr. Lloyd is licensed only in Maryland. Ms. Haley stated that the mortgage company did, at first, contact her husband to perform the appraisal, but because Mr. Lloyd is not licensed in Virginia, they gave permission for Ms. Haley to perform the appraisal. Ms. Haley stated that on the day of the inspection, her husband drove her to the property, and accompanied her inside the house while she did the inspection. Additionally, Ms. Haley stated that she signed Ms. Sylvester's check over to Mr. Lloyd because she owed him money for a business expense unrelated to the Sylvester appraisal.

At some point after the appraisal, Ms. Sylvester decided to change mortgage companies. The new mortgage company also required an appraisal. When Ms. Sylvester and Mary Haley could not agree on a fee for a second appraisal report, Ms. Sylvester asked the mortgage company to send a different appraiser. The mortgage company assigned Stephen Rochkind (the complainant). Upon arriving at Ms. Sylvester's house for the appraisal, Ms. Sylvester gave Rochkind a copy of the Haley appraisal. After some discussion with Ms. Sylvester about why she needed another appraisal, Rochkind learned that it was not Mary Haley who performed the inspection. During the IFF, Rochkind stated this prompted him to notify the Board by filing a complaint.

Based in part on my observance of the demeanor of the witnesses, and my 30+ years experience in the profession, I make the following assessments of the testimony and evidence presented during the IFF:

- Ms. Haley asserts that Ms. Sylvester was upset with her because she needed her house to appraise for a certain dollar figure. I am not persuaded by this assertion. The second appraisal came in very near to the Haley appraisal. Ms. Sylvester also stated that she was happy with the amount of both appraisals.
- Ms. Sylvester did not file the complaint against Mary Haley. She simply responded to the investigator's request for information, and she responded to the Board's request that she appear at the IFF. I can find no motive to suggest she has anything to lose or gain by providing testimony that Mary Haley was never in her house. Ms. Sylvester was adamant that she had never seen Ms. Haley before, and it was Ms. Sylvester who was at home to let the appraiser in at the time of the inspection.
- Ms. Haley testified that at the time of the Sylvester appraisal, she was extremely busy – appraising 15 to 20 homes per week. I find that to be a plausible reason for why Mr. Lloyd may have conducted the inspection – to save time and resources during an extremely busy period.

- The sketch of the interior of the Sylvester house, submitted by Ms. Haley, is not relevant. There is no way to know whether or not she drew it for the purpose of this proceeding, and whether or not she had Mr. Lloyd's assistance in drawing it.
- Additionally, there were several times during the IFF that I found Ms. Haley and Mr. Lloyd's testimony to be evasive, and therefore, unconvincing. Some examples are:
 - o When asked if she ever had Mr. Lloyd perform an appraisal for her in Virginia, Ms. Haley responded "he can't – he's not licensed" rather than answering an immediate yes or no.
 - o When Mr. Lloyd was first asked to relate his recollection of the appraisal of the Sylvester property, he responded "the property was inspected" without offering a specific description of who inspected it.
 - o When first asked if she accompanied Ms. Sylvester through the house, Ms. Haley gave a long, rambling discussion about what she *normally* does, without specifically answering the question.

The testimony described above, compared to the specific nature of Ms. Sylvester's testimony, Ms. Haley's statement that she was extremely busy, and the check being endorsed over to Mr. Lloyd, when considered collectively, lead me to believe that Ms. Haley did not perform the inspection of the Sylvester property. Therefore, the appraisal report signed by Ms. Haley, which certifies that she personally inspected the interior and exterior areas of the property, constitutes a misrepresentation in violation of Board Regulation 18 VAC 130-20-170.3. The above stated conclusions are extremely serious in nature. To certify and testify before this regulatory body a falsehood concerning the physical inspection of a property is grounds for suspension or revocation. Even if Ms. Haley did require Mr. Lloyd's assistance in her inspection, she could have acknowledged the level of assistance in the report. This misrepresentation should not be tolerated by this Board and I recommend license revocation be imposed.

Count 2: Board Regulation (Effective March 4, 1998)

Based on the testimony given during the IFF, I concluded that Ms. Haley did not personally inspect the interior of the subject property. (See explanation in Count 1.) The interior was inspected by Bert Lloyd. Ms. Haley failed to include in her appraisal report a summary of Lloyd's assistance, as required by Rule 2-2(b)(vii) of the 2002 Uniform Standards of Professional Appraisal Practice (USPAP), in violation of 18 VAC 130-20-180.E. However, in light of the license revocation recommended for Count 1, I recommend no monetary penalty be imposed for Count 2.

Count 3: Board Regulation (Effective March 4, 1998)

Ms. Haley submitted an appraisal report to a mortgage company, certifying that she personally inspected the interior and exterior of the property. Based on the testimony

and evidence, I find that Ms. Haley did not personally inspect the interior or exterior of the property. (See explanation in Count 1.) Therefore, Ms. Haley failed to clearly and accurately set for the appraisal in a manner that will not be misleading, as required by USPAP Rule 2-1(a), in violation of 18 VAC 130-20-180.E. However, in light of the license revocation recommended in Count 1, I recommend no monetary penalty be imposed for Count 3.

By: David N. Castle / acc
David N. Castle
Presiding Board Member

Real Estate Appraiser Board

Date: Feb. 1, 2005

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Real Estate Appraiser Board
DATE: September 20, 2004; Revised November 12, 2004

FILE NUMBER: 2003-00295
RESPONDENT: Mary Walsh Haley
LICENSE NUMBER: 4001004718
EXPIRATION: February 28, 2005

SUBMITTED BY: Doneen A. Whitaker
APPROVED BY: Linda J. Boswell

COMMENTS:

Mary Walsh Haley ("Haley") was at all times material to this matter a licensed real estate appraiser in Virginia (No. 4001004718).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On August 6, 2002, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Stephen Rochkind, SRA ("Rochkind"), a licensed real estate appraiser, reporting information regarding Haley. (Exh. C-1)

On or about March 14, 2002, Haley submitted an appraisal report to Advantage Investors Mortgage representing the appraisal of residential property owned by John W. and Sheri Sylvester ("Sylvester") at 1938 Hileman Road, Falls Church, Virginia, in connection with a refinance. (Exh. C-2)

1. Board Regulation (Effective March 4, 1998)

18 VAC 130-20-170. Standards of ethical conduct.

In obtaining a real estate appraiser license and performing a real estate appraisal, a licensee shall comply with the Ethics Provisions of the Uniform Standards of Professional Appraisal Practice and the following standards of ethical conduct:

3. A licensee, registrant or certificate holder shall not make any misrepresentation.

FACTS:

On or about March 14, 2002, Haley submitted an appraisal report to Advantage Investors Mortgage representing the appraisal of residential property owned by John W. and Sheri Sylvester ("Sylvester") at 1938 Hileman Road, Falls Church, Virginia, in connection with a refinance. Haley represented in the March 14, 2002 appraisal report Appraiser's Certification that in connection with this appraisal, she personally inspected the interior and exterior areas of the subject property. (Exh. R-2)

Haley did not personally inspect the interior of the subject property. (Exh. C-1); (Exh. I-3); (Exh. I-4)

2. Board Regulation (Effective March 4, 1998)

18 VAC 130-20-180. Standards of professional practice.

- E. Appraisal report requirements. In reporting a real property appraisal, a licensee shall meet the requirements of Standard 2 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the report's preparation.

To wit: 2002 Uniform Standards of Professional Appraisal Practice Standards Rule 2-2(b)(vii)

FACTS:

On or about March 14, 2002, Haley submitted an appraisal report to Advantage Investors Mortgage representing the appraisal of residential property owned by John W. and Sheri Sylvester ("Sylvester") at 1938 Hileman Road, Falls Church, Virginia, in connection with a refinance. Haley represented in the March 14, 2002 appraisal report Appraiser's Certification that in connection with this appraisal, she personally inspected the interior and exterior areas of the subject property. (Exh. R-1)

Haley did not personally inspect the interior of the subject property. The interior of the subject property was inspected by Bert Lloyd. Haley did not summarize sufficient information in her appraisal report to disclose to the client and any intended users of the appraisal the scope of work used to develop the appraisal as required by Standards Rule 2-2(b)(vii), specifically the name of another who provided significant real property appraisal assistance. (Exh. C-1); (Exh. R-1); (Exh. R-2); (Exh. W1-1); (Exh. I-3); (Exh. I-4); (Exh. I-5)

3. Board Regulation (Effective March 4, 1998)

18 VAC 130-20-180. *Standards of professional practice.*

- E. Appraisal report requirements. In reporting a real property appraisal, a licensee shall meet the requirements of Standard 2 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the report's preparation.

To wit: 2002 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 2-1(a)

FACTS:

On or about March 14, 2002, Haley submitted an appraisal report to Advantage Investors Mortgage representing the appraisal of residential property owned by John W. and Sheri Sylvester ("Sylvester") at 1938 Hileman Road, Falls Church, Virginia, in connection with a refinance. Haley represented in the March 14, 2002 appraisal report Appraiser's Certification that in connection with this appraisal, she personally inspected the interior and exterior areas of the subject property. Haley did not personally inspect the interior of the subject property. Haley did not clearly and accurately set forth the appraisal in a manner that will not be misleading as required by Standards Rule 2-1(a). (Exh. C-1); (Exh. R-1); (Exh. R-2); (Exh. W1-1); (Exh. I-3); (Exh. I-4); (Exh. I-5)